

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF OKLAHOMA

CARL DEAN WYATT, JR.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. CIV-16-673-W
	)	
HECTOR RIOS, Official Capacity,	)	
Warden of Lawton Correctional Facility,	)	
et al.,	)	
	)	
Defendants.	)	

**ORDER**

On July 14, 2016, United States Magistrate Judge Suzanne Mitchell issued a Report and Recommendation in this matter and recommended that the Court dismiss without prejudice the complaint filed by plaintiff Carl Dean Wyatt, Jr., but grant Wyatt the opportunity to amend. Wyatt, who is proceeding pro se, was advised of his right to object, see Doc. 11 at 3, and the matter now comes before the Court on Wyatt's Motion for Plaintiff to Amend. See Doc. 12.

Upon de novo review of the record, the Court concurs with Magistrate Judge Mitchell's finding that Wyatt's complaint fails to state a claim for relief against the defendants in their official capacities. See Doc. 1. The Court likewise agrees that Wyatt should be permitted to amend his complaint and that he be granted, as he has requested, the opportunity "to change [his complaint] . . . in which he [named the defendants in their] . . . official capacity to [reflect that the defendants are being sued in their] individual capacity . . . ." Doc. 12 at 2.

Accordingly, the Court

(1) ADOPTS the Report and Recommendation [Doc. 11] issued on July 14, 2016;  
(2) DISMISSES without prejudice the complaint [Doc. 1] file-stamped June 17, 2016;  
(3) GRANTS Wyatt's Motion for Plaintiff to Amend [Doc. 12] file-stamped July 22, 2016;

(4) DIRECTS Wyatt to file his amended complaint, identifying the capacity in which each defendant has been sued, within twenty-one (21) days of this date;

(5) DIRECTS the Clerk of the Court to mail to Wyatt a copy of the form "Pro Se Prisoner Civil Rights Complaint" to facilitate this amendment; and

(6) RE-REFERS this matter to Magistrate Judge Mitchell for further proceedings.

ENTERED this 26<sup>th</sup> day of July, 2016.

  
LEE R. WEST  
UNITED STATES DISTRICT JUDGE